

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of:)	
)	
Gray MidAmerica TV Licensee Corp. ¹)	
)	CSR-5880-N
Petition For Waiver of Section 76.92(f) of the)	
Commission's rules)	

ORDER ON RECONSIDERATION

Adopted: January 13, 2003

Released: January 15, 2003

By the Deputy Chief, Media Bureau:

I. INTRODUCTION

1. Gray MidAmerica TV Licensee Corp., licensee of station WILX-TV (NBC, Ch. 10), Lansing, Michigan ("WILX-TV"), has filed a petition for partial reconsideration of the Bureau's decision denying WILX-TV's petition seeking a waiver of the Commission's significantly viewed exception to the network nonduplication rules.² No opposition to this petition has been received. For the reasons listed below, we grant WILX-TV's petition.

II. DISCUSSION

2. In its request for waiver, WILX-TV sought a waiver of the significantly viewed exception to the network nonduplication rules so that it could assert its rights to network nonduplication protection against Station WOOD-TV (NBC, Ch. 8), Grand Rapids, Michigan ("WOOD-TV"), in the AT&T cable communities of Lansing and East Lansing in Ingham County, Michigan, and portions of Clinton and Easton Counties, Michigan. The *Bureau Order* rejected WILX-TV's original survey information because the system-specific audience estimates did not appear to be from a sample that was proportional to the populations of the included communities.³ WILX-TV seeks reconsideration for the communities of Lansing and East Lansing only. The issue of proportionality, therefore, is moot.

3. In support of its petition, WILX-TV states that it believed that the system-specific and community-specific data it submitted with its petition for special relief was sufficient to demonstrate that WOOD-TV was no longer significantly viewed. The *Bureau Order*, however, rejected the system-specific data and did not rule on the community-specific data because it was unclear whether WILX-TV desired a waiver solely for Lansing and East Lansing, Michigan.⁴ WILX-TV states that it therefore resubmits the community-specific data for Lansing and East Lansing appended to its original petition that

¹Formerly Benedek License Corporation.

²*Benedek License Corporation*, 17 FCC Rcd 19167 (MB 2002) ("*Bureau Order*").

³*See* 47 C.F.R. § 76.54(b).

⁴Petition for Reconsideration at 2.

demonstrates that WOOD-TV is no longer significantly viewed in Lansing and East Lansing.⁵ The submitted Nielsen Media Research data are averages of two four-week sweep periods in each of two years. The first year's survey audience estimates were based on the November 1999/February 2000 sweep periods and the second year's estimates were based on November 2000/February 2001 data. The submitted audience information is as follows:

<u>Survey Year⁶</u>	<u>Households Studied</u>	<u>Share Viewing Hours</u>	<u>Standard Error</u>	<u>Net Weekly Circulation</u>	<u>Standard Error</u>
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Lansing:

Nov. 99/ Feb. 00	14	0.0	0.0	0.0	0.0
Nov. 00/ Feb. 01	13	1.4	1.47	5.9	5.69

East Lansing:

Nov. 99/ Feb. 00	57	0.9	0.40	12.7	5.29
Nov. 00/ Feb. 01	50	0.9	0.44	13.8	5.41

WILX-TV argues that the above submission meets the standards established in *KCST-TV* and has been found acceptable in other Bureau decisions.⁷ WILX-TV asserts that this study establishes that, for two consecutive years, WOOD-TV has not met the applicable viewing levels required for a distant station to be considered significantly viewed in the communities of Lansing and East Lansing, Michigan.⁸

4. We find that, as required by the Commission's rules, WILX-TV has provided two sets of community-specific survey results for the communities of Lansing and East Lansing, Michigan, for each year surveyed. Section 76.5(i) of the Commission's rules requires that for network stations to be considered significantly viewed, the survey results should exceed a 3 percent share of total viewing hours and a net weekly circulation of 25 percent, by at least one standard error.⁹ For Lansing, the November 1999/February 2000 reported results for WOOD-TV both total viewing hours and net weekly circulation equal zero; for November 2000/February 2001 the reported results, with one standard error added, are 2.87 percent of total viewing hours and a net weekly circulation of 11.59 percent. For East Lansing, the November 1999/February 2000 results, with one standard error added, are 1.3 percent share of total viewing hours and a net weekly circulation of 17.99 percent; for November 2000/February 2001 the shares are 1.34 percent of total viewing hours and a net weekly circulation of 19.21 percent. For both

⁵*Id.* at Attachment I.

⁶The survey dates of November 1999/February 2000 and November 2000/February 2001 meet the criteria set forth in the rules and *KCST-TV, Inc.*, 103 FCC 2d 407 (1986), that the two one-week surveys be separated by at least 30 days and that both surveys may not occur between April and September.

⁷Petition Reconsideration at 2-3. *See also Benedek License Corporation*, 13 FCC Rcd 1159 (1998).

⁸*Id.* at 3.

⁹47 C.F.R. § 76.5(i).

years, the share of total weekly viewing hours and the net weekly circulation both fall below the required 3 percent and 25 percent minimum for significantly viewed status when the standard errors are considered. Accordingly, we find that the submitted audience surveys are sufficient to show that WOOD-TV no longer attains the viewing levels needed to demonstrate significantly viewed status in the communities of Lansing and East Lansing, Michigan. Based on the revised data and information provided, we conclude that the surveys provided by WILX-TV meet the requirements specified in the Commission's rules.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petition for partial reconsideration filed by Gray MidAmerica TV Licensee Corp. **IS GRANTED**.

6. This action is taken pursuant to authority delegated under Sections 0.283 and 1.106 of the Commission's rules.¹⁰

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief, Media Bureau

¹⁰47 C.F.R. §§ 0.283 and 1.106.